

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HOLLY M. FLEMING,

Defendant.

**8:22-CR-59**

**PRELIMINARY ORDER OF  
FORFEITURE**

This matter is before the Court on the Government's Motion for a Preliminary Order of Forfeiture. [Filing 104](#).<sup>1</sup> The Defendant appeared before a magistrate judge for a change of plea hearing on August 21, 2023, and pleaded guilty to Counts I and IV of the Superseding Indictment. [Filing 106 at 1](#), 17.2 As explained in a prior written Order, the Court determined that it could not yet accept the Defendant's guilty pleas because the appeal waiver provision of her plea agreement was not discussed with her at the change of plea hearing. [Filing 116 at 1](#). Thereafter, on November 16, 2023, the Defendant appeared before the Court. After the Court addressed the appeal-waiver of the plea agreement with the Defendant, it determined that her pleas of guilty to Counts I and IV of the Superseding Indictment were knowing, voluntary, and intelligent. Accordingly, the Court accepted the Defendant's guilty pleas and adjudged the Defendant guilty of Counts I and IV of the Superseding Indictment.

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<sup>1</sup> The Court previously granted this Motion prematurely and later withdrew the Preliminary Order of Forfeiture it entered on September 13, 2023. See [Filing 116](#) (withdrawing [Filing 105](#)).

<sup>2</sup> Count I charged the Defendant with conspiracy to distribute and possess with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, in violation of [21 U.S.C. § 846](#). Count IV charged the Defendant with possessing a firearm in furtherance of a drug trafficking crime, in violation of [18 U.S.C. § 924\(c\)\(1\)\(A\)](#). See [Filing 35 at 2](#).

Prior to sentencing, the Court orally granted the Government's Motion for a Preliminary Order of Forfeiture and authorized the Government to seize \$16,563.76 in United States currency. The Court also explained on the record that it would enter a written order memorializing the Court's oral Preliminary Order of Forfeiture and that such Order would set forth additional requirements that the Government must comply with before the Court would enter a Final Order of Forfeiture. This Order now does so.

The Court has reviewed the record in this case and, being duly advised in the premises, finds as follows:

1. On August 21, 2023, the Defendant appeared before a magistrate judge for a change of plea hearing. [Filing 106](#). The Defendant entered guilty pleas to Counts I and IV of the Superseding Indictment at that time. [Filing 106](#). The magistrate judge submitted a written Findings and Recommendation to the undersigned on August 21, 2023, recommending that the undersigned accept the Defendant's pleas of guilty. [Filing 96](#). The Court issued a written Order explaining why it would hold this matter in abeyance. [Filing 116](#). On November 16, 2023, the Defendant appeared before the Court, the Court accepted the Defendant's pleas of guilty to Counts I and IV of the Superseding Indictment, and the Court adjudged the Defendant guilty of those Counts.

2. The Superseding Indictment also included a Forfeiture Allegation. [Filing 35 at 2–3](#). The Forfeiture Allegation in the Superseding Indictment charged the Defendant with using seized money to facilitate the commission of the offense and/or the seized money was derived from proceeds obtained directly or indirectly as a result of the commission of the offense. [Filing 35 at 2–3](#). Specifically, it stated that the Defendant was to forfeit "\$61,198.76 United States currency seized from 424 N. 34th Street, Omaha, NE on or about February 18, 2022." [Filing 35 at 3](#).

However, the Government subsequently advised the Court in its Motion “that the FBI Administratively forfeited \$44,635.00 of the \$61,198.76; leaving the total amount of currency sought to be forfeited as \$16,563.76.” [Filing 104](#) at 2.

3. By virtue of said pleas of guilty, the Defendant has forfeited her interest in the \$16,563.76 in United States currency. Accordingly, the United States should be entitled to possession of said currency pursuant to [21 U.S.C. § 853](#).

4. The Government’s Motion for Preliminary Order of Forfeiture should be granted. Accordingly,

IT IS ORDERED:

1. The Government’s Motion for Preliminary Order of Forfeiture, [Filing 104](#), is granted;
2. Based on the Forfeiture Allegation of the Superseding Indictment and the pleas of guilty, the Government is hereby authorized to seize the \$16,563.76 in United States currency;
3. Defendant’s interest in the \$16,563.76 in United States currency is hereby forfeited to the Government for disposition in accordance with the law, subject to the provisions of [21 U.S.C. § 853\(n\)\(1\)](#);
4. The \$16,563.76 in United States currency is to be held by the Government in its secure custody and control;
5. Pursuant to [21 U.S.C. § 853\(n\)\(1\)](#), the Government shall publish for at least thirty consecutive days on an official internet government forfeiture site, [www.forfeiture.gov](http://www.forfeiture.gov), notice of this Preliminary Order of Forfeiture, notice of publication evidencing the government’s intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject property

must file a Petition with the Court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier;

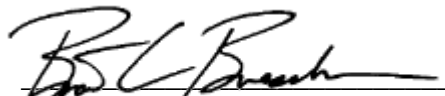
6. The published notice shall state the Petition referred to in Paragraph 5, above, shall be for a hearing to adjudicate the validity of the Petitioner's interest in the \$16,563.76 in United States currency, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title, or interest in the \$16,563.76 in United States currency and any additional facts supporting the Petitioner's claim and the relief sought;

7. The Government may also, to the extent practicable, provide direct written notice to any person known to have an interest in the \$16,563.76 in United States currency as a substitute for published notice as to those persons so notified; and

8. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to [21 U.S.C. § 853\(n\)](#), in which all interests will be addressed.

Dated this 16th day of November, 2023.

BY THE COURT:

  
Brian C. Buescher  
United States District Judge